



Portage County Board of Commissioners  
Meeting Minutes

0742

449 South Meridian Street  
Ravenna, OH 44266  
<http://www.co.portage.oh.us>

Amy Hutchinson, Clerk  
330-297-3600

Tuesday, September 3, 2019

7:00 PM

Commissioners' Board Room

*The Commissioners' meeting minutes are summarized; Audio recordings and backup material are available.  
Please contact the Commissioners' Office for specific details.*

The Portage County Board of Commissioners' Public Hearing came to order with the following members present:

Attendee Name	Title	Status
Vicki A. Kline	President	Present
Kathleen Clyde	Vice President	Present
Sabrina Christian-Bennett	Board Member	Present

**Also Present:** Mary Helen Smith, Portage County Health District, Attorney David Garnier and Attorney Chris Meduri, Prosecutor's Office, County Engineer Mickey Marozzi and Larry Jenkins, James Bielair and Eric Long, Portage Soil and Water Conservation, James Chandler, Richard Bennett, Gary Kapusta, and Clerk Amy Hutchinson

**PUBLIC HEARING**

**REVISED RULES FOR THE PORTAGE COUNTY ILLICIT DISCHARGE DETECTION  
AND ELIMINATION AND THE PORTAGE COUNTY CONSTRUCTION SITE SEDIMENT,  
EROSION CONTROL AND STORM WATER MANAGEMENT**

**I. OPENING & INTRODUCTIONS**

Portage County Commissioner Vicki A. Kline opened the Public Hearing at 7:00 PM and asked for introductions from those in attendance:

James Bielair, Portage Soil and Water Conservation, Gary Kapusta, Richard Bennett, Mary Helen Smith, Director of Environmental Health for the Portage County Health District, Attorney, Attorney Chris Meduri, Portage County Prosecutor's Office, Larry Jenkins, Portage County Engineer's Office, Attorney David Garnier, Portage County Prosecutor's Office, Jim Chandler, Eric Long, Portage Soil and Water Conservation, County Engineer and Stormwater Coordinator Mickey Marozzi, Commissioner Christian-Bennett, Commissioner Vicki A. Kline, Commissioner Kathleen Clyde, and Clerk Amy Hutchinson

**II. PURPOSE OF THE HEARING – Commissioner Kline**

In compliance with Ohio Revised Code § 307.79, the Portage County Board of Commissioners will hold three Public Hearings to hear comment on proposed amendments to the rules for Portage County Construction Site Sediment, Erosion Control and Storm Water Management and Portage County Illicit Discharge Detection and Elimination.

Upon future adoption, the proposed amended rules would be implemented through a Portage County Storm Sewer District in accordance with Ohio Revised Code 6117.01. This is the second of three public hearings with the first being August 29, 2019 at 9:05 AM.

Notice of this public hearing was published in the Record Courier Newspaper on August 15, 2019, August 22, 2019 and August 29, 2019.

A copy of the proposed amendments to the rules have been on display and available for public review at the Commissioners' Office located on the seventh floor of the Portage County Administration Building, 449 South Meridian Street in Ravenna and at the County Engineer's Facility, 5000 Newton Falls Road in Ravenna since July 19, 2019. A copy has also been posted on the Portage County Storm Water Management Department Website, which can be found on the Portage County Homepage.

### **III. SWEARING IN OF THOSE WHO ARE SPEAKING**

Commissioner Kline noted that anyone wishing to speak must be sworn in and asked that interested parties raise their right hand and respond I do.

- Do you solemnly affirm under the penalties of the law of perjury of the State of Ohio that the testimony you are about to give shall be the truth, the whole truth and nothing but the truth?

Audience Response: I do.

### **IV. INTRODUCTION AND OVERVIEW – County Engineer Michael Marozzi**

County Engineer Marozzi is the Stormwater Coordinator and in that role, he administers the Stormwater Program on behalf of the Commissioners.

The Portage County Stormwater District was established in 2009 for the County and the unincorporated Townships. The purpose of the District is to facilitate compliance with the requirements of the Ohio EPA, National Pollutant Discharge Elimination System (NPDES), Stormwater Phase II Permit Program. Ohio EPA required compliance for Phase II communities, including Portage County beginning in 2003. Through the Phase II program, the Stormwater District is required by Ohio EPA to implement a stormwater management plan that includes activities in the 6 minimum control measures with the goal of improving surface water quality, including bodies of water that Ohio EPA has designated as impaired, and has established total maximum daily loads for specific pollutants of concern. In 2009, the Board of Commissioners adopted rules regarding Illicit Discharge Detection and Elimination (the IDDE program) and construction and post construction phase storm water management erosion, and sediment control. These topics relate to the minimum control measures Nos. 3, 4, and 5 of the Stormwater Management Plan. From time to time, the IDDE and stormwater management rules will require an update to maintain consistency with best management practices and revisions to the Ohio EPA's permit requirements. The permit is renewed every 5 years and there have been 3 upgrades since the program has been established.

Representatives from the Portage County Health District and the Portage County Soil and Water Conservation District will each provide an overview with their respective areas for IDDE and Stormwater management. Both sets of revised rules were developed over a 6 month to 1 year period by the Steering Committee and that Committee had assistance from their Stormwater Consultant and Prosecutor's Office. The Steering Committee presented both sets of revised rules to the Stormwater Task Force and the Task Force recommended the rules be adopted by the Board of Commissioners. At this time, Mary Helen Smith from the Health District will address the IDDE rules.

## **V. RULE CHANGES SUMMARY**

Environmental Health Director Mary Helen Smith, Portage County Health District:

There are three significant changes to the regulations and the first one is to define what the enforcement process and authority is when the Health Department is doing illicit discharge detection elimination inspections and they find there is some kind of discharge from a pipe after 72 hours, the Health Department has a flowchart detailing a process as to whether they would undertake the enforcement action themselves or refer the investigation to the Ohio EPA or potentially over to another agency for determination as to whether it's allowed to be there or not. Some examples would be a discharging household to each treatment system that the Health Department would retain authority over for repair or replacement. Another example would be an industry that's discharging and would be referred back to Ohio EPA to investigate.

The second significant change to the regulations is to make some common definitions between both Exhibit A and Exhibit B. For example waters of the state, waters of the United States and changing the word illegal to illicit so that the language is the same throughout both documents.

The third change is fairly substantive whereby the Health District has competing priorities on rules and regulations they enforce. The first set of regulations they enforce are by statute 3718, the Household Sewage Treatment System Regulations. The legislative intent under this statute was anyone who had a septic system that was operating as designed at the time the regulations were passed (January 2015), could continue to use that septic system. What's happened is that the Health Department removes its Health Department hat and went into Title 61 Ohio EPA Stormwater authority and would go out to look at certain discharging septic systems; although the system may be functioning as designed, they then tell the homeowner they need to go to the Ohio EPA to get a permit so they are not considered to be an illicit discharge, and at that time the Ohio EPA would inform the property owner to upgrade or replace the system to meet the new Federal Clean Water Act. These rules address the situation so the competing authority between the Ohio Department of Health and the Ohio EPA for septic systems that are commonly referred to as Class 1 Aeration Systems put in place between 1986-2006 that were previously permitted under the Clean Water Act but do not meet the new Federal Clean Water Act standards of 2007 moving forward. The change in the rules considers them not to be an illicit discharge

as long as they maintained the system and have the required service contract and it was not determined to be causing a public health nuisance. The Committee is seeking support from the public and the Commissioners and believe this change will be a positive affect on approximately 1,000 residents in Portage County.

Stormwater Engineer Eric Long, Portage Soil and Water Conservation District:

The rules being amended are the Portage County Construction Site Sediment, Erosion, and Stormwater Management Rules. The amendments are to keep current with the changes that have taken place with the Ohio EPA's NPDES permit and the General Construction permit.

One item the Committee wanted to incorporate into the document that is not a direct result of the EPA's changes is the critical storm requirement. This requirement is a standard that is being used widely and the same requirements were being done through the subdivision rules, but were not included in the document. The critical storm requirement is essentially in place to manage the volume and rate at which water leaves the site after construction is completed.

Another change the EPA made is to the 1 acre and 5 acre requirement. The EPA has discontinued use of the 1 acre requirement, which applied for all construction sites between 1 acre and 4.99 acres of disturbance and another set of rules kicked in for any construction sites 5 acres and greater. The 5 acre threshold has also been discontinued and they now have a 2 acre and 1 acre threshold. The 2 acre is considered any site that is greater than 2 acres must use a structural Best Management Practice from their approved practice list. Any site between 1-2 acres in disturbance can apply to the EPA for alternative stormwater control methods, but they still have to get individual permission to use an alternative method if not using one from their approved practice list.

A requirement has been removed for signage on construction sites pertaining to the Stormwater Pollution Prevention Plan as it was a practice that was never put into place or enforced.

Changes were also made to the Construction Performance and Maintenance Guarantee section of the document. The changes made reflect changes being made to the Subdivision Regulations through the Regional Planning Commission.

The previous document required 5 hard copies of submitted plans, and the document was changed to only require 1 hard copy and 1 digital copy.

Another change was the wording on the ability to establish a Fee Schedule for view and inspection of the sites. Prior to the change, they had the ability to institute fees for the review and inspection of the construction documents but they are currently not charging any fees for the review. The change just clarifies the ability to do so in the future, but there are no immediate plans to institute. The remaining items are minor changes to definitions to mimic the IDDE rules or to match the verbiage of the Ohio EPA.

## VI. PUBLIC COMMENT

1. Jim Chandler, 1863 Porter Road, Atwater:

Mr. Chandler believed the meeting was about changes for sewage runoff and to force people to update their septic systems even if they didn't see a discharge but that apparently isn't what we're talking about and the Health Department is not trying to force people into thousands of dollars of upgrades.

Ms. Smith responded the easy answer is no.

Mr. Chandler noted if the Health Department sees discharge that coming to the street it will be investigated, but if there isn't any discharge the Health Department is not going to say the septic need to be updated.

Ms. Smith responded the statute 3718 specifically allows a homeowner with a functioning septic system to continue to use it. It only gives the Health District authority to have probable cause to look at someone's system and probable cause is knowing explicitly it's causing an emergency, a public health nuisance, they receive a written complaint or in this case, the Board of Commissioners contracts with the Health District to do the Illicit Discharge Detection and Elimination. When the Health Department undertakes dry weather screening, which is done 72 hours after a storm event and occasionally 48 hours if the storm has been below .01 in the amount of precipitation, and they see something in the ditch because it's presumed that it should be dry. The statute also indicates in 2718.011 how the Board of Health would determine what a public health nuisance is and they can do that by a malfunctioning component, incorrect settings, missing pieces/parts, or an investigation whereby they would look for odor, color, discharge and subsequently some kind of dye test that would cause ponding or surfacing on sewage in the ground. The change is to help 1,000 people in an area the Health Department has deemed okay, but the EPA will not give a permit because it doesn't meet the new standards.

Mr. Chandler asked if someone sells their property, the Health Department wouldn't go in to investigate if they didn't see a problem and Ms. Smith responded Portage County has a voluntary point of sale program and no one needs to ask the Health Department to sell or transfer a house to someone else. What tends to happen and has been happening since the 80's is that the banks typically do not want to loan money to the buyer until they know whether the septic system is functioning as it's designed because when the buyer defaults on the loan and the bank owns it, the bank can't sell the property. On some of the lower income loans, most banks will require an evaluation so the Health Department provides that as a paid service and there are also registered service providers they can hire as an independent third party to do the evaluation as long as they are registered in the Health District they are working and they have to provide the Health Department a copy within 60 days. At that point, the Health Department is obligated in doing the evaluation to determine whether it's a public health nuisance and they follow statute 3718.011 to define what

that nuisance is. If it's malfunctioning, the Health Department does issue orders for the property owner to fix the problem and have changed their forms within the last 6 months and a homeowner can find the application on the Health Department's website. In working with the Prosecutor's Office, the Health Department now requires the property owner to sign the application giving them the authority to be on their property and to acknowledge if they find the system is not working correctly, they will be issued orders to upgrade the system.


Mr. Chandler responded the explanation helps because he thought the County was pushing people away from purchasing in Portage County, but that's not the case at all. Ms. Smith explained the banks want to ensure they don't end up with a house they have to fix.

## **VII. CLOSING STATEMENT**

Commissioner Kline noted the third and final public hearing is scheduled for Thursday, September 5, 2019 at 1:00 PM in the Portage County Commissioners' Board Room on the 7<sup>th</sup> floor of the County Administration Building, 449 South Meridian Street, Ravenna.

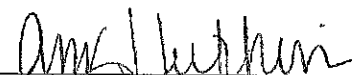
There being no further business to come before the Board, a motion was made by Sabrina Christian-Bennett, seconded by Kathleen Clyde to adjourn the Public Hearing at 7:19 PM. All in favor, motion carries.

We do hereby certify that the foregoing is a true and correct record of the Portage County Board of Commissioners' meeting for Tuesday, September 3, 2019.

  
Vicki A. Kline, President

  
Kathleen Clyde, Vice President

  
Sabrina Christian-Bennett, Board Member

  
Amy Hutchinson, Clerk

